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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/551,603

01/20/2006

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18377-0067

8027

29052 7590 05/20/2008
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EXAMINER

SAJJADI, FEREDYDOUN GHOTB

ART UNIT

PAPER NUMBER

1633

MAIL DATE

DELIVERY MODE

05/20/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ADVISORY ACTION

Continuation of 11. does NOT place the application in condition for allowance because:

The Examiner maintains the rejection of claims 1, 2, 4-9 and 31 under 35 USC §112, first paragraph, lack of enablement; for reasons of record. Applicants' arguments are based on evidence that has not been provided. The basis for the rejection is that the claimed ES cells are karyotypically abnormal, and thus a person of skill in the art would not know how to use the abnormal ES cells, in view of the teachings of the specification.

Applicants argue that the claimed ES cells are on deposit at ATCC, and that Applicants have entered into agreements with Invitrogen (printout attached) and R&D Systems for producing cDNA libraries from the cell line. However, no printout appears to have been included in Applicants' response; and attorney statements do not constitute evidence and should be supported by an appropriate affidavit or declaration.

Applicants should further note that the deposit of a single cell line is not considered sufficient, as the claims embrace numerous karyotypically different cell types.

The rejection of the claims is thus maintained in view of the foregoing issues.

The rejection of claim 31 under 35 USC §102(a) for anticipation by Rosler et al. is hereby withdrawn, as the reference fails to teach the various cell surface markers for the claimed human aneuploid ES cell.

In response to Applicants' arguments that the disclosure of U.S. Provisional Application No.: 60/459,090 provides sufficient support for the instantly claimed cells, such is not found persuasive, because as previously stated, the Provisional Application fails to disclose any of the claimed abnormal karyotypes, and a person of skill in the art would not expect the specific abnormalities claimed simply because the cells were passaged by trypsin treatment following SSEA4 selection.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to FEREYDOUN G. SAJJADI whose telephone number is (571)272-3311. The examiner can normally be reached on 6:30 AM-3:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Woitach can be reached on (571) 272-0739. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Fereydoun G. Sajjadi, Ph.D.
Examiner, Art Unit 1633

/Anne Marie S. Wehbe/
Primary Examiner, Art Unit 1633